



**Billing Code 4333–15**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[FWS–R8–ES–2016–N235; FXES11130800000–178–FF08EVEN00]**

**Receipt of Application for Incidental Take Permit; Low-Effect Habitat Conservation Plan for California Flats Solar Project Operations and Maintenance Activities, Monterey and San Luis Obispo Counties, California**

**AGENCY:** Fish and Wildlife Service, Interior

**ACTION:** Notice of receipt of permit application; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, have received a request from California Flats Solar, LLC, for an incidental take permit under the Endangered Species Act of 1973, as amended. The permit would authorize take of the federally endangered San Joaquin kit fox and the threatened California red-legged frog, California tiger salamander, and vernal pool fairy shrimp, incidental to otherwise lawful activities associated with the California Flats Solar Project Operations and Maintenance Activities Habitat Conservation Plan. We invite public comment.

**DATES:** Written comments should be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may download a copy of the draft habitat conservation plan and draft low-effect screening form and environmental action statement on the internet at <http://www.fws.gov/ventura/>, or you may request copies of the documents by U.S. mail to our Ventura office, or by phone (see **FOR FURTHER INFORMATION CONTACT**). Please address written comments to Stephen P. Henry, Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003. You may alternatively send comments by facsimile to (805) 644–3958.

**FOR FURTHER INFORMATION CONTACT:** Christopher Diel, Fish and Wildlife Biologist, at the above address or by calling (805) 644–1766.

**SUPPLEMENTARY INFORMATION:** We, the U.S. Fish and Wildlife Service (Service), have received a request from California Flats Solar, LLC (applicant), for an incidental take permit under the Endangered Species Act of 1973, as amended (Act). The applicant has agreed to follow all of the conditions in the habitat conservation plan for the project. The permit would authorize take of the federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*) and the threatened California red-legged frog (*Rana draytonii*), California tiger salamander (*Ambystoma californiense*), and vernal pool fairy shrimp (*Branchinecta lynchi*), incidental to otherwise lawful activities associated with the California Flats Solar Project Operations and Maintenance

Activities Habitat Conservation Plan (HCP). We invite public comment on the application and related documents.

## **Background**

The San Joaquin kit fox was listed by the Service as endangered on January 24, 1997. The California red-legged frog, California tiger salamander, and vernal pool fairy shrimp were listed by the Service as threatened on May 23, 1996, August 4, 2004, and September 19, 1994, respectively. Section 9 of the Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations prohibit the “take” of fish or wildlife species listed as endangered or threatened. “Take” is defined under the Act to include the following activities: “[T]o harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct” (16 U.S.C. 1532); however, under section 10(a)(1)(B) of the Act, we may issue permits to authorize incidental take of listed species. “Incidental Take” is defined by the Act as take that is incidental to, and not the purpose of, carrying out of an otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species are, respectively, in the Code of Federal Regulations at 50 CFR 17.32 and 17.22. Under the Act, protections for federally listed plants differ from the protections afforded to federally listed animals. Issuance of an incidental take permit also must not jeopardize the existence of federally listed fish, wildlife, or plant species. All species included in the incidental take permit would receive assurances under our “No Surprises” regulations (50 CFR 17.22(b)(5) and 17.32(b)(5)).

The applicants have applied for a permit for incidental take of the San Joaquin kit fox, California red-legged frog, California tiger salamander, and vernal pool fairy shrimp. The potential taking would occur by activities associated with the operations and maintenance of the

California Flats Solar Project in suitable habitat for the covered species. Incidental take coverage for construction of the California Flats Solar Project was exempted under previous consultation with the U.S. Army Corps of Engineers under section 7 of the Act.

### **Our Preliminary Determination**

The Service has made a preliminary determination that issuance of the permit is neither a major Federal action that will significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4321 et seq.; NEPA), nor will it individually or cumulatively have more than a negligible effect on the species covered in the HCP. Therefore, the permit qualifies for a categorical exclusion under NEPA as provided by the Department of Interior Manual (516 DM 2, Appendix 1 and 516 DM 8.5).

### **Public Comments**

If you wish to comment on the permit applications, plans, and associated documents, you may submit comments by any one of the methods in **ADDRESSES**.

### **Public Availability of Comments**

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

**Authority**

We provide this notice under section 10 of the Act (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1506.6).

**Dated:** March 14, 2017 \_\_\_\_\_

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**Stephen P. Henry, Field Supervisor,**  
**Ventura Fish and Wildlife Office,**  
**Ventura, California.**

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